

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Del Oro Water Company (U61W) for Authority to Increase Amount of its Indebtedness for the Safe Drinking Water State Revolving Fund Loan for the Regional Intertie Project and to make Related Rate Adjustments in its Lime Saddle, Magalia and Paradise Pines Districts.

Application 13-08-024
(Filed August 22, 2013)

**DECISION APPROVING REQUEST OF DEL ORO WATER COMPANY
FOR AN INCREASE IN THE STATE DRINKING WATER
STATE REVOLVING FUND LOAN**

1. Summary

This decision approves the application of Del Oro Water Company (Del Oro) to increase the approved Safe Drinking Water State Revolving Fund (SRF) construction loan funding for Phase 1 of Del Oro's Regional Intertie Project (Project) and adjust the SRF surcharges in the Lime Saddle, Magalia and Paradise Pines Districts to reflect the increase in the SRF loan funding. Our approval of Del Oro's request permits Del Oro to file a Tier 1 advice letter adjusting the level of the SRF surcharge in each of the three Del Oro districts served by the Project based on the allocation of the SRF debt to each district approved in Decision (D.) 08-05-032.

This decision also grants Del Oro's request for authority to file an advice letter that reallocates and increases Project equity costs for the Magalia, and Paradise Pines Districts above the amounts approved in D.08-05-32. Finally, this

decision permits Del Oro to file a General Rate Case for all three districts in April 2014. Today's decision resolves all issues raised in this proceeding. This proceeding is closed.

2. Background

Del Oro Water Company (Del Oro) filed Application (A.)13-08-024 on August 22, 2013, requesting California Public Utilities Commission (Commission) authority to: (1) increase the approved Safe Drinking Water State Revolving Fund (SRF) loan funding for Phase 1 of the Regional Intertie Project (Project) approved by the Commission in Decision (D.) 08-05-032 from \$4,465,879 to \$4,778,700; (2) adjust the authorized surcharges in the Lime Saddle, Paradise Pines, and Magalia Districts to reflect the increase in loan funding; (3) file a rate base offset advice letter that reallocates and increases the Project equity costs for the Paradise Pines and Magalia Districts; and (4) file a General Rate Case (GRC) for the Lime Saddle, Paradise Pines, and Magalia Districts in April 2014.

In D.08-05-032 (the Decision), the Commission approved a settlement (Settlement Agreement) between Del Oro and the Office of Ratepayer Advocates¹ regarding construction and financing of Phase 1 of the Project. Phase 1 of the Project includes construction of additional pumping, treatment, storage, and 2.5 miles of transmission facilities (pipelines) to allow for increased water withdrawals from Lake Oroville to Del Oro's Lime Saddle Water Treatment Plant.

¹ The Division of Ratepayer Advocates is now known as the Office of Ratepayer Advocates. California Senate Bill 96, approved by the Governor on September 26, 2013, formally changed the name.

D.08-05-032 found that Phase 1 is needed to address water supply problems due to declining output of existing wells and to create a more reliable regional water supply.² In the Settlement Agreement and Decision, the Parties agreed that the primary beneficiary of Phase 1 of the Project is Del Oro's Lime Saddle district, which will no longer need to rely on a 265 acre-foot water reserve purchased by Del Oro from its Stirling Bluffs District. The Paradise Pines and Magalia districts will also benefit indirectly from having the 265 acre-feet water reserve available for their respective use.

The total amount of SRF funding approved in D.08-05-032 was \$4,465,187. D.08-05-032 allocated the debt service on the SRF loan between the three districts in the following manner: Lime Saddle = 25% (\$1,116,297); Paradise Pines = 70% (\$3,125,631); Magalia = 5% (\$223,259).

The total amount of equity investment approved by D.08-05-032 was \$757,320. D.08-05-032 determined that the equity investment in the Project should be allocated between the three districts as follows: Lime Saddle = 50% (\$378,660); Paradise Pines = 46.8% (\$354,426); Magalia = 3.2% (\$24,234).

D.08-05-032 further specified that that the total costs for the Project shall not exceed \$5,222,507 and that the estimated return on equity was 10.54%.

2.1. Del Oro's Requested Increase

Del Oro states that following the issuance of D.08-05-032, the California Department of Public Health (CDPH) approved a maximum SRF loan funding amount for Phase 1 of the Project of \$4,460,879, which is \$4,308 less than the SRF loan approved by D.08-05-032. Further, the Project equity approved by CDPH

² D.08-05-032, Finding of Fact 10.

was \$757,102, which is \$218 less than the equity amount approved by D.08-05-032. Thus, there was a difference of \$4,526 between the Project costs of \$5,222,507 approved in D.08-05-032 and the Project costs initially approved by CDPH of \$5,217,981.

In addition, Del Oro states that during construction, change orders approved by CDPH and related costs increased the total Project costs by \$1,163,929 from CDPH's approved \$5,217,981 to \$6,381,910.³ Del Oro reports that the reasons for the cost increases included, but were not limited to: (i) a delay in receiving funds from the Department of Water Resources (DWR), which caused a work stoppage of approximately four to five months in 2010; (ii) the unusually wet winter of 2010-2011, which caused a significant delay in construction; and (iii) Pacific Gas and Electric's delay (until various points throughout 2011) in providing Del Oro with required designs, which delayed development of conformed drawings as well as receipt, review, and approval of change orders and associated additional construction work. Additional costs were also associated with (i) a major repair to several thousands of feet of Pentz Road required by Butte County that increased Project costs by over \$338,000; (v) Labor Compliance Audit costs; (ii) Variable Frequency Drives at the Lake Intake Site; and (iii) Surge Anticipator Valves.

Del Oro states that it has worked with CDPH on an ongoing basis to seek CDPH approval of the changes as they occurred. On August 8, 2012, Del Oro requested that CDPH: (i) increase the authorized SRF loan amount in light of the change orders, and (ii) restructure the existing loan to account for the

³ See A.13-08-024, Exhibits 2 and 5.

Butte County Contribution. By letter dated April 26, 2013,⁴ CDPH conditionally increased the SRF loan amount to \$4,778,700 to reflect: (1) change orders which CDPH has indicated qualify for SRF funding; and (2) a contribution by Butte County to offset SRF loan and Project equity costs allocated to the Lime Saddle District. The new SRF loan amount of \$4,778,700 represents an increase of \$313,513 from the original SRF loan of \$4,465,187 approved in D.08-05-032. Consistent with the terms of the Settlement Agreement approved in D.08-05-032, Del Oro states that it accepts and agrees to CDPH's determination with regard to the maximum amount by which the SRF loan amount can be increased. Del Oro requests that the authorized SRF loan amount for the Project be increased from the \$4,465,187 approved in D.08-05-032 to 4,778,700, an increase of \$313,513.

According to Del Oro, all three districts' SRF cost allocations would increase from the amounts approved in D.08-05-032 as follows: Lime Saddle's allocation would increase from \$1,116,297 to \$1,330,826; Paradise Pines would increase from \$3,125,631 to \$3,726,313; and Magalia would increase from \$223,259 to \$266,165. However, as a result of Butte County's contribution, Lime Saddle's new SRF cost allocation would be reduced by \$544,604, resulting in an SRF cost allocation to Lime Saddle of \$786,222. This allocation represents a \$330,075 decrease for Lime Saddle, a \$600,682 increase for Paradise Pines, and a \$42,906 increase for Magalia in the SRF loan amounts allocated to those districts in D.08-05-032.

However, Del Oro states that CDPH has imposed a condition on the increased SRF funding. Del Oro must obtain rate relief at a level sufficient to service the new SRF loan amount. Therefore, by this application, Del Oro is

⁴ See A.13-08-024, Exhibit 1 at 1.

seeking to obtain Commission approval of the increased SRF loan amount in order to receive the additional SRF loan funding for Project costs.

2.1.1. Butte County Contribution

D.08-05-032 contemplated that certain property tax revenues held by Butte County could be made available to Del Oro to cover certain Project costs.⁵ On May 10, 2013, Butte County contributed \$1,073,907 to the Project out of a trust account maintained to hold funds collected by the former Lime Saddle Community Services District (Butte County Contribution).

Butte County requested that any sums contributed by Butte County be first applied exclusively to the equity portion of the Project allocated to the Lime Saddle District.⁶ Based on the increased Project costs and the increased SRF loan funding, Del Oro states that the equity funding required for the Project has increased from \$757,320 to \$1,058,606. Using the allocation percentages from D.08-05-032, the equity portion of the Project allocated to: Lime Saddle would increase from \$378,660 approved in D.08-05-032 to \$529,303; Paradise Pines would increase from \$354,426 to \$495,428; and Magalia would increase from \$24,234 to \$33,875.

However, as a result, the Butte County Contribution, Lime Saddle's equity portion of the Project would be reduced to zero. Using the allocation percentages adopted in D.08-05-032 and taking into account the Butte County Contribution,

⁵ D.08-05-032, Finding of Fact #23.

⁶ A.13-08-024, Exhibit 6, *Butte County Resolution Authorizing a Contribution in Aid of Construction Toward the Regional Intertie Project for the Exclusive Benefit of the Ratepayers Within the Lime Saddle District from the Trust Fund Established Pursuant to Resolution 98-161 as Related to the Dissolution of the Lime Saddle Community Services District and the Transfer of Assets of Said Trust Fund*, dated June 12, 2012.

the revised Project equity allocation results in a \$378,660 decrease for Lime Saddle, a \$141,002 increase for Paradise Pines, and a \$9,641 increase for Magalia.

Despite the increase in Project costs, the Butte County Contribution, coupled with the increased SRF loan funding, actually decreases the total amount of overall equity from the \$757,320 approved in D.08-05-032 to \$529,303, a decrease of \$228,017, because the sum of: (1) the increase in the SRF loan; and (2) the amount of the Butte County Contribution exceeds the amount of the increase in Project cost.

2.1.2. Ratemaking Proposals

Subject to the Commission's approval of: (i) the increased SRF loan amount and increases to the cost allocation of the SRF loan in each of the three districts; and (ii) a reallocation of Project equity costs in all three districts, taking into the account the Butte County Contribution, which eliminates an equity allocation for Lime Saddle, combined with an increase in equity contributions from the Paradise Pines and Magalia Districts, Del Oro requests authority to file two advice letters in order to recover the Project equity and increased SRF loan amount: (1) a Tier 1 advice letter adjusting the level of the SRF surcharge in each district based on: (i) the allocation of the SRF debt to each district by the Settlement Agreement approved in D.08-05-032 in light of the proposed increase in the SRF loan amount, and (ii) the reduction in the amount of the SRF loan allocated to Lime Saddle occasioned by the Butte County Contribution. The requested SRF loan amount of \$4,778,700 would be allocated to the Lime Saddle, Paradise Pines, and Magalia Districts in the amounts of \$786,222, \$3,726,313, and

\$266,165, respectively,⁷ and, (2) a Tier 1 rate base offset advice letter for the Magalia and Paradise Pines Districts to provide adequate equity funding for the Project, reflecting the final cost of completing construction of the Project, less the sum of the Project costs ultimately funded by the SRF loan and the Butte County Contribution. Project equity would total \$529,303. Of this \$529,303, the Paradise Pines District would be allocated \$495,428, and the Magalia District would be allocated \$33,875.

Absent the Butte County Contribution to Lime Saddle, the increase in the SRF loan would be \$862,425. The remainder of the \$1,163,929 increase in Project costs, \$301,503, would become part of the equity portion of the Project. Were it not for the Butte County Contribution, Project equity would increase to \$1,058,606 from the CDPH authorized level of \$757,102.

However, because of the Butte County Contribution to Lime Saddle's portion of the Project's equity, this amount will be decreased by \$529,303. The remaining Project equity amount of \$529,303 represents a \$228,017 decrease from the \$757,320 approved for Project equity in D.08-05-032.

Finally, Del Oro notes that the revised Project equity amount includes \$152,958 in financing costs. During construction, Del Oro states that it has incurred over a \$1 million cash shortfall arising from the difference between (1) the cost of the Project, including the overruns caused by the change orders, and (2) the funds made available for the Project through (a) the SRF loan, \$4,460,879, and (b) the authorized equity investment of \$757,320. Therefore,

⁷ A.13-08-024, Exhibit 3 shows the surcharge proposed for each of the three districts required to service the SRF loan based on the allocation of loan proceeds proposed herein.

Del Oro states that the additional equity portion for which rate base offset relief is requested includes \$152,958 to reflect the cost to Del Oro of being required to commit those funds to the Project (prior to the date of any rate base offset relief) during the three years of construction.

3. Discussion

As we noted in D.08-05-032, the CDPH and this Commission have a dual role in ensuring that a safe, reliable water supply is available to Del Oro ratepayers in the Lime Saddle, Paradise Pines, and Magalia Districts at reasonable rates. D.08-05-032 found that the Water Project was reasonable and necessary to address the water supply problems and create a more reliable regional water supply to Del Oro's ratepayers.

Del Oro explains that its request for an increase in the authorized SRF loan amount stems from an increase in the total cost for Phase 1 of the Project from \$5,217,981 to \$6,381,910 that has occurred subsequent to the issuance of D.08-05-032. According to Del Oro, the increased Project costs have been reviewed and authorized by CDPH, and CDPH has determined the extent to which the increased Project costs will be funded through an increase in the SRF loan amount. Del Oro's application includes an April 26, 2013, letter from CDPH to Del Oro demonstrating that CDPH has received the Del Oro request for an increase in SRF funding to a level of \$4,778,770, consistent with the request in the instant application. Del Oro's application also explains the contribution from Butte County and the condition that the contribution must be first applied to the equity portion of the Project allocated to the Lime Saddle District. In its April 26, 2013 letter, CDPH takes note of the Butte County Contribution and states that Del Oro must provide to CDPH proof of Commission approval of rate

increases in an amount sufficient to make the SRF annual loan payments. The rate increase must be dedicated to the repayment of the SRF loan.⁸

The proceeds of the SRF loan funds the majority of the cost of the Project. The semi-annual payments on the SRF loan are in turn funded by surcharges on the bills of the customers on each of the three districts benefiting from the Project. For purposes of calculating the surcharges, Del Oro proposes to maintain the cost allocation adopted in D.08-05-032, adjusted to reflect the Butte County contribution.

The allocation percentages for debt service adopted in D.98-05-032 are 25% to Lime Saddle District, 70% to Paradise Pines District, and 5% to Magalia District. D.08-05-032 allocated the equity investment between the three districts as follows: Lime Saddle, 50%; Paradise Pines, 46.8%; Magalia, 3.2%. As noted in D.08-05-032, the agreed-upon allocation reflects consumption of water in each district, connection fees paid by certain Lime Saddle customers, and Lime Saddle cost savings.

The total Project costs have increased to \$6,381,910. In light of the Butte County contribution of \$1,073,907, and a revised equity investment amount of \$529,303, CPDH has conditionally increased the SRF loan amount to \$4,778,700 pending Commission approval of Del Oro's request. Del Oro provided a table presenting the revised allocation calculated using the allocation percentages adopted in D.08-05-032 and complying with the request of Butte County with respect to its contribution in Exhibit 3 to its Application. Chart 1, below, is a recreation of that table.

⁸ A.13-08-024, Exhibit 1 at 1.

Chart 1

	Allocation % per D.08-05- 032	Actual Equity per Del Oro	Increased Allocation	Less Butte County Contribution to Equity	Adjusted Equity Allocation
Lime Saddle	50%	378,551	529,303	\$ (529,303.00)	
Paradise Pines	46.80%	354,324	495,428		495,428
Magalia	3.20%	24,227	33,875		33,875
Total		757,102	1,058,606		529,303

	Allocation % per D.08-05- 032	Actual SRF per Del Oro	Allocation of Increased SRF Loan	Less Butte County Contribution	Adjusted SRF Allocation
Lime Saddle	25%	1,115,220	1,330,826	\$ (544,604.00)	786,222
Paradise Pines	70%	3,122,615	3,726,313		3,726,313
Magalia	5%	223,044	266,165		266,165
Total		4,460,879	5,323,304		4,778,700

\$ (1,073,907.00))

\$ 6,381,910.00

Section 7.5 of the Settlement Agreement approved in D.08-05-032 states that Del Oro, “shall file an application for a GRC within 90 days of completion of Phase 1 of the Project wherein equity funded project costs shall be reviewed.” In this application, Del Oro instead requests authority to file a rate base offset advice letter to address the \$529,303 equity portion of the Project construction costs.

Del Oro also requests authority to file an application for a GRC for the Lime Saddle, Paradise Pines, and Magalia Districts in April 2014. The GRC would include Project costs. Del Oro states that it began operating the Project in February 2013 so it will not have a comprehensive estimate of the annual cost of operating the Project (for example, costs associated with power and purchased water) until 2014. Therefore, while Del Oro requests authority to recover equity costs associated with Project construction through the rate base offset advice letter, Del Oro also requests authority to recover costs associated with Project operation through a GRC application in April 2014. Project equity collected pursuant to the proposed rate base offset advice letter would be subject to refund based on Commission review of Project costs in the GRC.

Del Oro maintains that this approach would provide an expedient and reasonable means for Del Oro to begin collecting Project equity costs it has already borne, particularly since the Project equity requested in this application is less than the amount authorized by the Commission in D.08-05-032. Since the basis for the original allocation was reviewed in great detail in the original settlement process, we find Del Oro's request reasonable.

Del Oro's request for an increase in the approved SRF loan funding is reasonable and should be approved. Further, we find Del Oro's requested allocation of the increased SRF loan costs and equity investment reasonable and in the best interest of Del Oro's customers. We also find that the proposal by Del Oro to: (1) file a Tier 1 advice letter to adjust the presently authorized SRF surcharges in the Lime Saddle, Paradise Pines, and Magalia Districts, to reflect the increase in SRF loan funding and (2) file a rate base offset advice letter to reallocate and adjust the Project equity costs to reflect the addition of \$529,303 to

the rate bases of the Paradise Pines and Magalia Districts, in the amounts of \$495,428 and \$33,875, respectively, is also reasonable and should be approved.

4. Categorization and Need for Hearing

In Resolution ALJ-176-3321, dated September 5, 2013, the Commission preliminarily determined that the category of this proceeding is ratesetting as defined in Rule 1.3 (e), and that a hearing was necessary. No protests to the application were filed. At the Prehearing Conference held on November 8, 2013, the assigned Administrative Law Judge (ALJ) determined that there was no need for a hearing. Today's decision confirms the preliminary categorization and also confirms the ALJ finding that no hearings are necessary.

5. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

6. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Julie M. Halligan is the assigned ALJ in this proceeding.

Findings of Fact

1. In D.08-05-032 the Commission approved Phase 1 of the Project and approved a SRF maximum loan amount of \$4,465,187.
2. The maximum amount of equity funding approved in D.08-05-032 is \$757,320.
3. Subsequent to the adoption of D.08-05-032, the CDPH approved an SRF loan amount of \$4,460,879.

4. During construction of Phase 1, change orders approved by the CDHF increased the total costs of the Project by \$1,163,929.

5. The revised maximum amount of SRF loan funding of \$4,778,700 is subject to the condition that Del Oro obtain rate relief from the Commission at a level sufficient to service the new loan amount.

6. Using the allocation percentages approved in D.08-05-032, the revised SRF loan amount of \$4,778,700 would be allocated to the Lime Saddle, Paradise Pines, and Magalia Districts in the amounts of \$786,222, \$3,726,313, and \$266,165, respectively.

7. Based on the increased Project costs and the increased SRF loan funding, the equity investment required for the Project increased from \$757,320 to \$1,058,606.

8. On May 10, 2013, Butte County contributed \$1,073,907 to the Project from a trust account maintained by Butte County to hold the funds collected by the former Lime Saddle Community Services District.

9. Butte County requests that its contribution be first applied exclusively to the equity portion of the Project allocated to the Lime Saddle District.

10. Before considering the Butte County Contribution, using the allocation percentages adopted in D.08-05-032, the revised equity portion of the Project would be allocated as follows: Lime Saddle would increase from \$378,660 to \$529,303; Paradise Pines would increase from \$354,426 to \$495,428; and Magalia would increase from \$24,234 to \$33,875.

11. Despite the increase in Project costs, the Butte County Contribution, when combined with the increased SRF funding, decreases the total amount of equity from \$757,320 to \$529,303.

12. Of the revised Project equity total of \$529,303, Lime Saddle would be allocated zero, the Paradise Pines District would be allocated \$495,428, and the Magalia District would be allocated \$33,875.

13. No protests or responses to the application were filed.

14. Del Oro is responsible for ensuring that its customers have access to safe, adequate and reliable water service at reasonable rates.

Conclusions of Law

1. Del Oro's request to increase the SRF loan funding for Phase 1 of the Project from the \$4,465,187 to \$4,778,700 is reasonable and should be approved.

2. The method for allocation of SRF loan debt service to Del Oro Districts should remain the same as that adopted in D.08-05-032.

3. Del Oro's request for authority to file a Tier 1 advice letter to adjust the SRF surcharge in the Lime Saddle, Paradise Pines, and Magalia Districts to reflect: (i) the allocation of the increased SRF loan funding to each district consistent with the allocation approved in D.08-05-032, and (ii) the reduction in the amount of the SRF loan allocated to Lime Saddle resulting from the Butte County Contribution is reasonable and should be granted. The approved SRF loan amount of \$4,778,700 should be allocated to the Lime Saddle, Paradise Pines, and Magalia Districts in the amounts of \$786,222, \$3,726,313, and \$266,165, respectively.

4. Del Oro's request that the Commission reduce the overall Project equity amount to \$529,303 from the \$757,320 approved in D.08-05-032 is reasonable and should be granted.

5. Del Oro's request for authority to file a Tier 1 advice letter adjusting rates to reflect the addition of \$529,303 to the rate bases of the Paradise Pines and

Magalia Districts, in the amounts of \$495,428 and \$33,875, respectively, is reasonable and should be approved.

6. Del Oro's request to file a GRC in April, 2014 for the Lime Saddle, Paradise Pines, and Magalia Districts is reasonable and should be approved.

7. This decision should be effective today to ensure that work on the Project proceeds in an expeditions and efficient manner.

O R D E R

IT IS ORDERED that:

1. Del Oro Water Company's request for an increase in the Safe Drinking Water State Revolving Fund construction loan funding for Phase 1 of the Del Oro Regional Intertie Project from \$4,465,187, to \$4,778,770 is granted.

2. Del Oro Water Company is authorized to file a Tier 1 advice letter adjusting the State Revolving Fund (SRF) surcharge in the Lime Saddle, Paradise Pines, and Magalia Districts to reflect: (i) the allocation of the increased SRF loan funding to each district consistent with the allocation approved in D.08-05-032, and (ii) the reduction in the amount of the SRF loan allocated to Lime Saddle resulting from the Butte County Contribution. The approved SRF loan amount of \$4,778,700 shall be allocated to the Lime Saddle, Paradise Pines, and Magalia Districts in the amounts of \$786,222, \$3,726,313, and \$266,165, respectively.

3. Del Oro Water Company is authorized to file a Tier 1 advice letter adjusting rates to reflect the addition of \$529,303 to the rate bases of the Paradise Pines and Magalia Districts, in the amounts of \$495,428 and \$33,875, respectively, is granted. Del Oro Regional Intertie Project (Project) equity costs collected through the rate base offset advice letter are subject to refund based on California

Public Utilities Commission (Commission) review and approval of Project costs in the General Rate Case.

4. Del Oro Water Company is authorized to file a General Rate Case for the Lime Saddle, Paradise Pines, and Magalia Districts in April 2014.

5. No hearings are necessary.

6. Application 13-08-24 is closed.

This order is effective today.

Dated _____, at San Francisco, California.